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Attorney for Defendant
JOSE ESQUIVEL

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
OAKLAND DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

v.

JOSE ESQUIVEL,

Defendant.

Case No. CR 12-0664 YGR

**STIPULATION AND ~~PROPOSED~~ ORDER
REGARDING FINALIZATION OF
DISCOVERY PRODUCTION; TO
VACATE 12.6.12 HEARING DATE; AND
TO CONTINUE TO PRESET HEARING
DATE FOR CHANGE OF PLEA OR TO
SET FOR TRIAL**

With the agreement of the parties, and with the consent of the defendant, the Court enters this order vacating the hearing date currently set for December 6, 2012 to confirm finalization of discovery production. A new hearing date has already been set by the Court for January 3, 2013 at 2:00 p.m. and the parties hereby stipulate to the exclusion of time under the Speedy Trial Act from December 6, 2012 to January 3, 2013. The parties agree and stipulate, and the Court finds and holds, as follows:

1 1. The defendant, Jose Esquivel, was indicted on September 11, 2012 on one count
2 of violating 21 U.S.C. §§ 846 (conspiracy to distribute a controlled substance) and 841(a)(1)
3 (distribution of heroin), three counts of violating 21 U.S.C. §§ 841(a)(1)(distribution of heroin on
4 particular dates) and one count of violating 21 U.S.C. § 924(c)(possession of a firearm in
5 furtherance of drug trafficking).

6 2. On October 30, 2012, the government filed a First Superseding Indictment,
7 charging defendant Esquivel and codefendant Donald Mills with additional counts of violating
8 21 U.S.C. §§ 841(a)(1), adding specific controlled substance weight allegations, adding
9 forfeiture allegations, and alleging a violation of 18 U.S.C. §§ 922(g)(1) as to codefendant Mills.
10 Additional discovery related to the new charges in the First Superseding Indictment has been
11 provided to the parties.
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13 3. Defendant Esquivel has been arraigned on the First Superseding Indictment.

14 4. A hearing set for change of plea/to set for trial was held on November 29, 2012 at
15 which defense counsel informed the Court that she believed she had not received certain
16 discovery that would be necessary to review prior to finalizing plea discussions with defendant
17 and the United States Attorney. The Court set a hearing for December 6, 2012 in order for
18 defendant to confirm whether outstanding discovery has been received. Time was excluded
19 under the Speedy Trial Act from November 29, 2012 to December 6, 2012. The Court informed
20 counsel that the December 6 hearing would be taken off calendar a stipulation confirming receipt
21 of discovery was filed prior to that date. The Court also set a new hearing for change of plea/to
22 set for trial on January 3, 2013 at 2:00 p.m.
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1 5. The parties hereby agree and stipulate that the previously outstanding discovery
2 has been provided, that the December 6 hearing date may therefore be vacated and that the next
3 hearing will be that previously scheduled for January 3, 2013.

4 6. Taking into account the public interest in the prompt disposition of criminal cases,
5 the parties further agree and stipulate that counsel's need to review and discuss the newly
6 provided discovery with her client constitutes good cause for excluding time under the Speedy
7 Trial Act. Failure to grant the continuance would deny the defense time for effective preparation
8 and representation.
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10 7. Accordingly, with the consent of the defendant, the Court hereby: (a) vacates the
11 December 6, 2012 hearing date; (b) orders that the period from December 6, 2012 to January ³~~13~~,
12 2013 be excluded from Speedy Trial Act calculations under 18 U.S.C. § 3161; and (c) continues
13 this matter to the preset hearing date on January 3, 2013 at 2:00 p.m.

14 IT IS SO STIPULATED:
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16

17 Dated: December 4, 2012

/s/
WILSON LEUNG
Assistant United States Attorney

19 Dated: December 4, 2012

/s/
JENNIFER SCHWARTZ, (SBN 135932)
Attorney for Defendant
JOSE ESQUIVEL

22
23 IT IS SO ORDERED.
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25 DATED: December 5, 2012



HON. YVONNE G. ROGERS
United States District Court Judge
Northern District of California